

III. REMARKS

In the Office Action, Claims 1, 3, 7, 11-16, 22, 24, 27 and 31-35 were rejected under 35 U.S.C. 102 as being anticipated by Hirama (US 6,111,341), and claims 2, 3, 6, 8-10, 17-21, 23, 25, 26 and 28-32 were rejected under 35 U.S.C. 103 as being unpatentable over Hirama for reasons set forth in the Action. It is noted that the Action is silent with respect to whether claims 4 and 5 are rejected on prior art or whether they contain allowable subject matter.

On page 3 of the Action, the examiner notes that, if the claims were limited to a device actually operating in the TE mode, then the claims would be allowable. The claims have been amended for clarification, and to emphasize that the claimed device is actually operating in the TE mode. This amendment is believed to distinguish the claimed subject matter from the teachings of the cited art, thereby to overcome the foregoing grounds of rejection, and to obtain allowance of the claims.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



Geza C. Ziegler, Jr.
Reg. No. 44,004

21 JUNE 2004

Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date indicated below as first class mail in an envelope addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 6/21/04

Signature: Roman Polonka
Person Making Deposit